




**King County
Department Policies and Procedures**

**General Department
Policies & Procedures**

Title	Document Code No.
TRANSIT ADVERTISING POLICY	CON 1-1 (D-P)
Department/Issuing Agency	Date
King County Department of Transportation, Transit Division	April 8, 2011
Approved  , Kevin Desmond, Transit General Manager	

1.0 SUBJECT TITLE: King County Department of Transportation, Transit Division, Transit Advertising Policy

1.1 EFFECTIVE DATE: April 8, 2011

1.2 TYPE OF ACTION: New

1.3 KEY WORDS: (1) Transit; (2) Advertising

2.0 PURPOSE:

2.1 King County Transit System. The King County Department of Transportation, through its Transit Division, operates one of the largest bus systems in the nation, one that includes more than 225 bus routes throughout the County, with nearly 9,000 bus stops and more than 130 park-and-ride facilities connecting riders with those routes. The transit system is a vital component of the broad spectrum of public services the County provides. The County's transit advertising program is intended to generate revenue to support the transit system.

2.2 Advertising as Revenue Source. The County's transit operations are funded by a combination of federal, state and local funds, including grants and taxes, as well as fare box revenue. Advertising revenues are an important additional source of revenue that supports transit operations. The County's fundamental purpose in accepting transit advertising is to generate revenue to augment the Transit Division's operating budget.

The primary purpose of the County's transit system is to provide safe and efficient public transportation within its service area. Consistent with this purpose, the County places great importance on maintaining secure, safe, comfortable and convenient Transit Facilities and Transit Vehicles in order to, among other things consistent with the provision of effective and reliable public transportation, retain existing riders and attract new users of public transit services (KCC 28.96.020 and .210). To generate additional revenue while also accomplishing the primary objectives of transit

operations, the County will accept advertising on its Transit Facilities and Transit Vehicles only if such advertising complies with this Advertising Policy.

- 2.3 Limited Public Forum Status. The County's acceptance of transit advertising does not provide or create a general public forum for expressive activities. In keeping with its proprietary function as a provider of public transportation, and consistent with KCC 28.96.020 and .210, the County does not intend its acceptance of transit advertising to convert its Transit Vehicles or Transit Facilities into open public forums for public discourse and debate. Rather, as noted, the County's fundamental purpose and intent is to accept advertising as an additional means of generating revenue to support its transit operations. In furtherance of that discreet and limited objective, the County retains strict control over the nature of the ads accepted for posting on or in its Transit Vehicles and Transit Facilities and maintains its advertising space as a limited public forum.

In the County's experience, certain types of advertisements interfere with the program's primary purpose of generating revenue to benefit the transit system. This policy advances the advertising program's revenue-generating objective by prohibiting advertisements that could detract from that goal by creating substantial controversy, interfering with and diverting resources from transit operations, and/or posing significant risks of harm, inconvenience, or annoyance to transit passengers, operators and vehicles. Such advertisements create an environment that is not conducive to achieving increased revenue for the benefit of the transit system or to preserving and enhancing the security, safety, comfort and convenience of its operations. The viewpoint neutral restrictions in this policy thus foster the maintenance of a professional advertising environment that maximizes advertising revenue.

This policy is intended to provide clear guidance as to the types of advertisements that will allow the County to generate revenue and enhance transit operations by:

- Increasing revenue;
- Preventing the appearance of favoritism by the County;
- Preventing the risk of imposing views on a captive audience;
- Maintaining a position of neutrality on controversial issues;
- Preserving the marketing potential of the advertising space by avoiding content that the community could view as offensive, inappropriate or harmful to the public generally or to minors in particular;
- Maximizing ridership;
- Avoiding claims of discrimination and maintaining a non-discriminatory environment for riders;
- Preventing any harm or abuse that may result from running controversial or offensive advertisements;
- Reducing the diversion of resources from transit operations that is caused by controversial or offensive advertisements.

The County's Transit Facilities and Transit Vehicles are a limited public forum and, as such, the County will accept only that advertising that falls within the categories of acceptable advertising specified in this viewpoint neutral policy and that satisfies all other access requirements and restrictions provided herein.

- 2.4 Application of Policy. This Transit Advertising Policy applies to the posting of all new advertisements on Transit Facilities and Transit Vehicles on or after the Effective Date. Any advertisements which would be prohibited under this policy, but which were posted pursuant to the terms of a fully executed advertising contract prior to the Effective Date of this policy, will be allowed to remain posted for the duration of that contract.
- 3.0 ORGANIZATIONS AFFECTED: King County Department of Transportation, Transit Division
- 4.0 REFERENCES:
 - 4.1 Transit Code of Conduct, chapter 28.96 KCC
 - 4.2 Public Transit Definitions, chapter 28.92 KCC
 - 4.3 King County Charter Section 320.20: Provides that the county executive "shall have the power to assign duties to administrative offices and executive departments which are not specifically assigned by this charter or ordinance. . . ."
 - 4.4 Executive Policy/Procedures No. INF 7-1D-1 (A-EP): Approval and Routing Procedures for General Department Policies/Procedures (D-P's) and Department Work Procedures (D-W)
- 5.0 DEFINITIONS:
 - 5.1 Transit Facilities. Transit Facilities include the downtown Seattle transit tunnel (KCC 28.92.190), transit tunnel mezzanine areas (KCC 28.92.200) and transit tunnel platform areas (KCC 28.92.210).
 - 5.2 Transit Vehicles. Transit Vehicles include all transit passenger buses, trolleys and street railcars.

6.0 POLICIES:

6.1 PERMITTED ADVERTISING CONTENT

The following classes of advertising are authorized on Transit Facilities and Transit Vehicles if the advertising does not include any material that qualifies as Prohibited Advertising under Subsection 6.2 of this Advertising Policy:

- 6.1.1 Commercial and Promotional Advertising. Commercial and Promotional Advertising promotes or solicits the sale, rental, distribution or availability of goods, services, food, entertainment, events, programs, transactions, donations, products or property (real or personal) for commercial or noncommercial purposes or more generally promotes an entity that engages in such activities.
- 6.1.2 Public Service Announcements. The County recognizes that its advertising program and its overall public transportation mission are promoted by allowing for Public Service Announcements. Such announcements engender goodwill with the public because the transit system is seen as a caring and active participant in the community. Further, board members and administrators of nonprofit or government organizations who receive space for Public Service Announcements are introduced to the benefits of transit advertising, increasing the likelihood they will purchase transit advertising in the future for their organizations or other organization in which they are involved.

A Public Service Announcement must satisfy the following criteria:

- 6.1.2.1 The sponsor of a Public Service Announcement must be a government entity or a nonprofit corporation that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.¹
- 6.1.2.2 The Public Service Announcement may not include a message that is commercial or retail in nature or related to a festival, show, sporting event, concert, lecture or event for which an admission fee is charged.
- 6.1.2.3 The Public Service Announcement must be directed to the general public or a significant segment of the public and relate to:

- (a) prevention or treatment of illnesses;

¹ 26 USCS 501(c)(3) – Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition ..., or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

- (b) promotion of safety or personal well-being;
- (c) provision of children and family services;
- (d) solicitation by broad-based employee contribution campaigns which provide funds to multiple charitable organizations (e.g. United Way); or
- (e) provision of services and programs that provide support to low income citizens and citizens with disabilities.

6.2 PROHIBITED ADVERTISING CONTENT

Advertising is prohibited on Transit Facilities and Transit Vehicles if it includes any of the following content:

- 6.2.1 Political. Advertising promoting or opposing a political party, or promoting or opposing the election of any candidate or group of candidates for federal, state or local government offices. Advertising promoting or opposing initiatives, referendums or other ballot measures.
- 6.2.2 Public Issue. Advertising expressing or advocating an opinion, position or viewpoint on matters of public debate about economic, political, religious or social issues.
- 6.2.3 Prohibited Products, Services or Activities. Any advertising that (i) promotes or depicts the sale, rental, or use of, or participation in, the following products, services or activities; or (ii) that uses brand names, trademarks, slogans or other material that are identifiable with such products, services or activities:
 - (a) Tobacco. Tobacco products, including but not limited to cigarettes, cigars, and smokeless (e.g., chewing) tobacco;
 - (b) Alcohol. Beer, wine, distilled spirits or any alcoholic beverage licensed and regulated under Washington law, however, this prohibition shall not prohibit advertising that includes the name of a restaurant that is open to minors;
 - (c) Adult/ Mature Rated Films, Television or Video Games. Adult films rated "X" or "NC-17", television rated "MA" or video games rated "A" or "M";

- (d) Adult Entertainment Facilities. Adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments;
 - (e) Other Adult Services. Adult telephone services, adult internet sites and escort services.
- 6.2.4 Sexual and/or Excretory Subject Matter. Any advertising that contains or involves any material that describes, depicts or represents sexual or excretory organs or activities in a way:
- (a) that the average adult person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest of minors in sex; or
 - (b) which is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable material for minors to see; or
 - (c) that depicts, or reasonably appears to depict, a person under the age of eighteen (18) exhibiting his or her sexual or excretory organs or engaging in sexual or excretory activities.

For purposes of this subsection, "sexual or excretory organs" shall mean and include the male or female pubic area, anus, buttocks, genitalia, or any portion of the areola or nipple of the female breast and "sexual or excretory activities" shall mean and include actual or simulated sex acts of every nature (including but not limited to touching of one's own or another's clothed or unclothed sexual or excretory organs), urination and defecation.

- 6.2.5 False or Misleading. Any material that is or that the sponsor reasonably should have known is false, fraudulent, misleading, deceptive or would constitute a tort of defamation or invasion of privacy.
- 6.2.6 Copyright, Trademark or Otherwise Unlawful. Advertising that contains any material that is an infringement of copyright, trademark or service mark, or is otherwise unlawful or illegal.
- 6.2.7 Illegal Activity. Any advertising that promotes any activity or product that is illegal under federal, state or local law.
- 6.2.8 Profanity and Violence. Advertising that contains any profane language, or portrays images or descriptions of graphic violence, including dead, mutilated or disfigured human beings or animals, the act of killing, mutilating or

disfiguring human beings or animals, or intentional infliction of pain or violent action towards or upon a person or animal.

- 6.2.9 Firearms. Advertising that promotes or solicits the sale, rental, distribution or availability of firearms or firearms-related products.
- 6.2.10 Disparaging. Any advertising that is intended to be (or reasonably could be interpreted as being) disparaging, disreputable, or disrespectful to persons, groups, businesses or organizations, including advertising that portrays individuals as inferior, evil or contemptible because of their race, color, creed, sex, pregnancy, age, religion, ancestry, national origin, marital status, disability, sexual orientation or any other characteristic protected under federal, state or local law.
- 6.2.11 Insulting, Degrading or Offensive. Any material directed at a person or group that is so insulting, degrading or offensive as to be reasonably foreseeable that it will incite or produce lawless action in the form of retaliation, vandalism or other breach of public safety, peace and order.
- 6.2.12 Harmful or Disruptive to Transit System. Any material that is so objectionable under contemporary community standards as to be reasonably foreseeable that it will result in harm to, disruption of or interference with the transportation system.
- 6.2.13 Lights, Noise and Special Effects. Flashing lights, sound makers, mirrors or other special effects that interfere with the safe operation of the bus or the safety of bus riders, drivers of other vehicles or the public at large.
- 6.2.14 Unsafe Transit Behavior. Any advertisement that encourages or depicts unsafe behavior with respect to transit-related activities, such as non-use of normal safety precautions in awaiting, boarding, riding upon or debarking from transit vehicles.

6.3 ADDITIONAL REQUIREMENTS

- 6.3.1 Sponsor Attribution and Contact Information. Any advertising in which the identity of the sponsor is not readily and unambiguously identifiable must include the following phrase to identify the sponsor in clearly visible letters (no smaller than 72 point type for exteriors and 24 point type for interiors):

Advertisement paid for by _____

"Teaser ads" that do not identify the sponsor will, however, be allowed so long as a similar number of follow up advertisements are posted within eight weeks of the initial teaser ads that do identify the sponsor of those initial ads.

7.0 PROCEDURES:

Action By:

Action:

Transit Advertising
Contractor

7.1 All proposed transit advertising must be submitted to the Transit Advertising Contractor for initial compliance review. The Transit Advertising Contractor will perform a preliminary evaluation of the submission to assess its compliance with this policy. If, during its preliminary review of a proposed advertisement, the Transit Advertising Contractor is unable to make a compliance determination, it will forward the submission to the Transit Advertising Program Manager for further evaluation. The Transit Advertising Contractor may at any time discuss with the entity proposing the advertisement one or more revisions to an advertisement, which, if undertaken, would bring the advertisement into conformity with this Advertising Policy. The Transit Advertising Contractor will immediately remove any advertisement that the Transit Division at any time directs it to remove.

Transit Advertising
Program Manager

7.2 The Transit Advertising Program Manager will review the proposed advertisement for compliance with the guidelines set forth in this policy and will direct the Transit Advertising Contractor as to whether the proposed advertisement will be accepted. In the discretion of the Transit Advertising Program Manager, any proposed transit advertising may be submitted to the Transit Division General Manager for review.

Transit Division General
Manager

7.3 The Transit Division General Manager shall conduct a final review of proposed advertising at the request of the Transit Advertising Program Manager. The decision of the Transit Division General Manager to approve or reject any proposed advertising shall be final.

Action By:

Action:

Transit Advertising
Program Manager and
Transit Division General
Manager

7.4

The Transit Advertising Program Manager or the Transit
Division General Manager may consult with the County's
legal counsel at any time during the review process.

8.0 RESPONSIBILITIES:

The Transit Advertising Program Manager and Transit Division General Manager are responsible for the implementation of this Transit Advertising Policy.